

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Pay Telephone)	CC Docket 96-128
Reclassification and Compensation)	
Provisions of the Telecommunications Act)	
of 1996)	
)	
Petition for Rulemaking or, in the)	DA 03-4027
Alternative, Petition to Address Referral)	
Issues in Pending Rulemaking.)	

**COMMENTS OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

Three and a half years after the Federal Communications Commission (“FCC” or “Commission”) received the above-petition filed by Martha Wright, et. al. (“Petitioners”), the Commission still has not acted on the Petition.¹ In the original Petition, it was demonstrated that interstate interexchange collect calling rates from prison facilities were excessive, in part as a result of the monopolization of the service. Petitioners proposed that the Commission order this market opened to competition. When the Commission

¹ Petition for Rulemaking, or in the alternative, Petition to Address Referral Issues in Pending Rulemaking (November 3, 2003). The Petition was filed at the direction of a 2001 order of the federal District Court for the District of Columbia. *Wright v. Corrections Corp. of America*, CA No. 00-293 (GK), Memorandum Opinion (D.D.C. August 22, 2001) (“*Referral Order*”).

requested public comment, the National Association of State Utility Consumer Advocates (“NASUCA”)² filed initial and reply comments in support of the Petition.

In the face of continued Commission inaction, the Petitioners have acted. On February 28, 2007, they filed an “Alternative Rulemaking Proposal” (“ARP”). In the ARP, Petitioners request that the Commission set a benchmark rate of \$0.20-\$0.25 for interstate interexchange debit and collect calling respectively. NASUCA also supports this proposal, which is supported by cost information.³ It is high time for the Commission to do something to reduce the current excessive rates for this service, which are not paid by the incarcerated inmates, but by their family and friends on the “outside.” It is these people who are unreasonably burdened by these high rates.⁴

Petitioners have included a Declaration with the ARP that shows how, despite three and a half years of Commission-anticipated competitive pressures, many inmate calling rates remain far above those that would be expected in a competitive market.⁵ Rates of more than 80¢ a minute plus \$3.95 a call are typical, which mean that “[j]ust one

² NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. See, e.g., Ohio. Rev. Code Chapter 4911; 71 Pa.Cons.Stat. Ann. § 309-4(a); Md. Pub.Util.Code Ann. § 2-205; Minn. Stat. § 8.33; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). NASUCA’s associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

³ ARP at 16-22.

⁴ Of course, there are also burdens on the inmates caused by constricted conversation. As the ARP shows, conversation with the outside has been identified as a means to reduce recidivism. *Id.* at 10.

⁵ *Id.* at 11.

hour of conversation per week results in monthly phone bills of \$200 - \$300.”⁶ These rates are not remotely justified by security concerns.

Clearly, the Commission has the authority to impose benchmark rates on interstate interexchange inmate collect and debit card calling.⁷ NASUCA would note that the Commission’s authority is limited to interstate calling; intrastate inmate calling (long distance and local) would remain within the states’ jurisdiction.⁸ One would hope, however that states would take the lead of New York, Florida and Washington in easing the costs of intrastate calling.⁹

As previously noted, the Commission initially declined to set benchmark rates for inmate calling based on hopes that competition would bring those rates down. Years later, there is no such competition. Indeed, it could be argued that the need for security surrounding inmate calling makes a monopoly -- albeit an “unnatural” monopoly -- the most effective arrangement for such calling. The ARP is well-suited to the possibility of a state deciding that there should be a single or limited carriers involved in handling the calls from penal institutions.

WHEREFORE, for the reasons cited in the ARP and here, Petitioners’ Alternative Ratemaking Proposal should be adopted.

⁶ Id.

⁷ Id. at 11-12. NASUCA takes no position on whether the Commission has the authority to order institution of debit calling at institutions in the various states.

⁸ The Family Telephone Connection Protection Act of 2007, H.R. 555, cited in the ARP and attached to the ARP as Appendix F recognizes this limitation on the Commission’s powers.

⁹ ARP at 3-4.

Respectfully submitted,

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